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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

BALUBHAI G. PATEL, Plaintiff and Appellant, v. CITY OF LOS ANGELES, Defendant and Respondent.	B258026 (Los Angeles County Super. Ct. No. BS142351)

APPEAL from a judgment of the Superior Court of Los Angeles County, Joanne B. O'Donnell, Judge. Affirmed.

Law Offices of Thomas A. Nitti and Thomas A. Nitti, for Plaintiff and Appellant.

Office of the City Attorney, Michael N. Feuer and Gregory P. Orland, for Defendant and Respondent.

Balubhai G. Patel appeals from the judgment in favor of respondent City of Los Angeles (the City) on Patel's petition for writ of administrative mandate to overturn the City's placement of a 65-unit rental property into the Residential Escrow Account Program, commonly referred to as REAP. (Los Angeles Mun. Code, § 162.00 et seq., herea).[1] Patel raises procedural and constitutional challenges related to the City's decision to accept the building into REAP and the service of notice of the right to appeal the City's decision. We affirm.

OVERVIEW OF THE RELEVANT PORTIONS OF REAP

The purpose of REAP is "to provide a just, equitable and practical method, to be cumulative to and in addition to any other remedy available at law, to enforce the purposes of the Housing Code set forth in [LAMC] Section 161.102 and to encourage compliance by landlords with respect to the maintenance and repair of residential buildings, structures, premises and portions of those buildings, structures and premises." (LAMC, § 162.01.A.) The general rules pertaining to inspection and maintenance of housing units, and the administration of REAP, fall under the authority of the Los Angeles Housing Department (the Department) and are primarily administered through the Department's general manager or his or her designee. (LAMC, §§ 161.201, 161.401-161.408, 162.06.) Properties may be referred for inclusion in REAP by any city or county agency or any tenant "if the following conditions are met: i. The building or unit is the subject of one or more Orders; ii. The period allowed by the Order for compliance, including any extensions, has expired without compliance; and iii. The violation affects the health or safety of the occupants, or, if the unit is subject to the [Rent Stabilization Ordinance], the violation results in a deprivation of housing services, as defined in Section 151.02, or a habitability violation, as defined in Section 153.02." (LAMC, § 162.03.)

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[1] Subsequent reference to the Los Angeles Municipal Code shall be as "LAMC."

After review of the referral, the Department shall accept the property into REAP if the conditions set forth in LAMC section 162.03 are met. Upon acceptance of the building into REAP, the landlord is subject to various fees, rent may be reduced, and tenants may be permitted to pay rent into an escrow account. Notice of the decision to accept the building into REAP "shall be served on the landlord as set forth in Section 161.409 by certified United States mail, postage prepaid." (LAMC, § 162.04.) Service under LAMC section 161.409 is authorized by certified mail to the owner or landlord of the property "at the last known address of the person cited as that address appears in the last equalized assessment roll; or on any resident manager or authorized agent known to the Department; or at the address provided to the Department through any registration in accordance with Section 151.05."

LAMC section 162.03 requires notice that a "landlord may request a hearing before the General Manager to appeal any decision placing a unit or building into REAP. The appeal must be filed in writing and received by the Department within 15 calendar days of the date of mailing of the decision. The appeal must be on a form provided by the Department and set forth: 1. The grounds for appeal; and 2. The names and current rents of all of the tenants in units subject to REAP; If the decision is not appealed within the 15-day appeal period, it will be final. . . . The General Manager's hearing shall be set and held within 30 days of the filing of the appeal. . . ." (LAMC, § 162.06.)

The landlord, any tenant, or the enforcement agency may appeal the general manager's decision to the Appeals Board within 10 days. (LAMC, § 162.06.E.)

FACTS

Code violations were discovered during an inspection of Patel's property at 718 South Union Avenue in Los Angeles on August 22, 2012. Notice of those violations was served on Patel. The violations were not corrected as of November 20, 2012, resulting in an "Unresolved Violation Report" and "Notice to Comply."

On February 7, 2013, the City served Patel by certified mail with several documents, including a "Notice of General Manager's Hearing, Notice of Acceptance into the Rent Escrow Account Program (REAP), and Landlord's Right to Appeal." The notice advised Patel that an appeal must be filed no later than February 22, 2013. The general manager's hearing was scheduled for March 21, 2013.

Notice was sent by certified mail to two addresses. One was mailed to Patel at 255 S. Reno Street, Los Angeles, CA 90067 (the Reno notice). This address was obtained by the City from information provided by Patel to the county assessor. Tracking information for the Reno notice reflects it was processed on February 8, 2013, delivered February 9, shown as undeliverable as addressed on February 16, arrived on February 23, but notice was left because there was no authorized recipient available, and finally delivered on February 26. The second notice was mailed to Patel at 3371 Glendale Boulevard 137, Los Angeles, CA 90039 (the Glendale notice). This address was taken from information Patel provided to the Department. The letter to the Glendale address was returned to the City with "MOVE" handwritten across the front of the envelope.

Secondary notice of the general manager's hearing scheduled for March 21, 2013, was sent by certified mail to the Reno and Glendale addresses on March 11, 2013. The notice stated that Patel had not filed a timely appeal: "In accordance with the LAMC, the landlord was given the opportunity to appeal LAHD's action to place the property into REAP by requesting a General Manager's hearing on LAHD's REAP/Rent Reduction Determination. Since either the landlord did not submit an appeal or the appeal submitted by the landlord did not meet the requirements of the LAMC, the decision to accept the property into REAP is final, and an escrow account will be established. [¶] . . . [¶] The General Manager's hearing noted above will only concern the Outstanding Order(s) for this property and possible enforcement actions. The General Manager's hearing will not concern the acceptance of the property into REAP and the corresponding rent reduction(s)."

Patel appeared at the general manager's hearing with counsel. Patel told the hearing officer the Reno notice was sent to the wrong zip code—90067 instead of the

correct zip code of 90056. Counsel for Patel tried to address what he described as a "jurisdictional issue" regarding service of the notices by the City, but the hearing officer stated Patel had not filed a timely appeal, and the decision to accept the property into REAP was not before her. A contentious exchange between Patel's counsel and the hearing officer followed, with the officer repeatedly stating she had no jurisdiction to hear an appeal, and counsel insisting on making a record regarding service of the notices. Counsel stated that the certified mail was sent to the wrong address; the hearing officer replied that it is the owner's responsibility to provide the City with the correct address.

The hearing officer permitted counsel for Patel to submit the mailing information, while stating it would not be considered in connection with a REAP appeal. Counsel stated the letter to the Reno address was not promptly delivered, because it had the wrong zip code, and by the time it was delivered the deadline to appeal had elapsed. The hearing officer said the City obtains the mailing address from the county recorder,[2] and because the property owner is the original source of the address, if the information is incorrect, it must be fixed by the owner. Counsel further stated the letter to the Glendale address was not delivered.

The hearing officer threatened to terminate the hearing unless counsel for Patel allowed the officer to conduct the hearing. Counsel requested that the hearing continue. The officer repeated that the address for the Reno property came from the county recorder, the City imports that data by computer, and it is then placed electronically on notices. The officer proceeded to take evidence on the status of the code violations and entered findings on those issues not related to this appeal. The officer found that notice of the violations was mailed to Patel, the deficiencies at the property had not been corrected, and notice of the general manager's hearing was mailed on February 7, 2013. The decision informed Patel of his right to appeal to the Appeals Board by May 3, 2013.

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[2] Presumably the hearing officer meant to refer to the county assessor. (See LAMC, § 161.409.)

THE PETITION FOR WRIT OF ADMINISTRATIVE MANDATE

On March 29, 2013, Patel filed his verified petition for writ of administrative mandate. The petition alleged that Patel's statutory and constitutional rights were violated in connection with the REAP proceedings based on the denial of his right to notice and the opportunity to be heard. According to the petition, the property was placed into REAP without notice on February 7, 2013. Notice of the General Manager's Hearing and Patel's Right to Appeal was ineffective, because the Reno notice was received one day after the time to appeal had expired, and the Glendale notice was never received by Patel. The petition was supported by a discussion of authorities on (1) the due process right to notice and the opportunity to be heard before governmental depravation of a significant property interest; and (2) the requirement that an administrative body make specific findings, rather than a mere recitation of applicable statutory language. Patel asserted that the hearing officer refused to consider an appeal at the hearing on March 21, 2013, so no findings were made that would allow judicial review of entry into REAP.

After an initial round of pleadings by Patel and the City was stricken by the trial court due to excessive length, on February 18, 2014, Patel filed points and authorities in support of his petition, along with declarations. The City filed its opposition on March 24, 2014. Patel filed a reply on April 14, 2014.

A hearing was conducted by the trial court on April 30, 2014. The court adopted its tentative decision denying the petition as the final ruling of the court. The court determined that the City gave notice of acceptance into REAP as required by ordinance when it mailed the Reno and Glendale notices explaining Patel's right to appeal within 15 days. The Glendale notice was returned as "undeliverable" with a notation, "Move[d]." The Glendale notice was sent to the address Patel provided to the City, and when Patel changed addresses, he did not update his mailing address. The Reno notice was eventually delivered on February 23, 2013, but Patel did not personally receive it until March 21, 2013. The Reno address was given by Patel to the county assessor, which is a

source of notice under LAMC sections 162.04.E and 161.409. It was Patel's responsibility to provide a correct address to the county assessor. Patel was properly served but did not receive actual notice because he provided incorrect addresses. It was not the City's obligation to search out Patel's correct address, and service of the REAP notice was statutorily proper.

DISCUSSION

Patel makes the following arguments: (1) the City violated due process by not granting Patel relief from default, providing ineffective service, and not holding a hearing prior to divesting him of the fundamental vested right to collect rent on his property; and (2) the City's placement of Patel's property in REAP is an illegal penalty because he had no actual notice and the penalty imposed is unconscionable.

Standards of Review

"Statutory interpretation is a question of law that we review de novo. (*Regents of University of California v. Superior Court* (1999) 20 Cal.4th 509, 531.)" (*Bruns v. E-Commerce Exchange, Inc.* (2011) 51 Cal.4th 717, 724.)

There are two standards applicable to trial court litigation of petitions for writ of administrative mandate under Code of Civil Procedure section 1094.5—substantial evidence and independent judgment. (*Fukuda v. City of Angels* (1999) 20 Cal.4th 805, 810-811; Code Civ. Proc., § 194.5, subd. (c).) "When—as in this matter—the trial court reviews the commission's decision under the independent judgment standard of review and we review this ruling on appeal, we determine whether the record provides substantial evidence supporting the trial court's factual findings. [Citations.] Applying the substantial evidence test on appeal, we may not reweigh the evidence, but consider that evidence in the light most favorable to the trial court, indulging in every reasonable inference in favor of the trial court's findings and resolving all conflicts in its favor.

[Citations.]" (*Breslin v. City and County of San Francisco* (2007) 146 Cal.App.4th 1064, 1077-1078, fn. omitted.)[3]

"Questions of law and issues regarding the nature or degree of an administrative penalty are given a de novo review, the latter being examined to determine whether the administrative agency abused its discretion. (*JKH Enterprises* [(2013)] 142 Cal.App.4th [1046,] 1058, fn. 11.)" (*Antelope Valley Press v. Poizner* (2008) 162 Cal.App.4th 839, 851.)

Due Process Claims

Patel argues the decision to place his building into REAP divested him of his fundamental right to control his property and collect rent. He contends the process employed deprived him of his right to due process of law in three ways by: (1) providing ineffective service of notice of acceptance of the property into REAP and his right to appeal; (2) not granting relief from default; and (3) failing to provide a hearing before divesting him of the right collect rent on his property. We disagree.

A. Ineffective Service

Patel argues that the City provided ineffective notice of the acceptance of the property into REAP and the right to appeal. He contends the lack of notice was a violation of Patel's fundamental vested right to collect present rent. We agree with the trial court that the means of service employed by the City was effective and satisfied due process.

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[3] Patel presents extensive briefing on why the independent judgment standard applies to his right to collect rent. We need not discuss the contention, as it is clear the trial court applied the independent judgment standard in denying Patel's petition for writ of administrative mandate.

LAMC section 162.04.E provides that notice be given that a building has been accepted into REAP by various means, including through service by certified mail at the last known address "as it appears on the last equalized assessment roll," any resident manager or authorized agent, or at the address provided through registration under LAMC section 151.05. (See also REAP Regulations 1200.04.E.) Here, the trial court found Patel was properly served by mail at the addresses he provided, and that Patel alone was responsible for his failure to receive timely notice of the property's acceptance into REAP and his right to appeal. The court further found that the City's process of notification was reasonably calculated to provide actual notice. The court's factual findings are supported by substantial evidence, and upon independent review, we agree with the court's legal conclusions.

"Before taking an action which will affect a property interest protected by the due process clause of the Fourteenth Amendment, a state must provide 'notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.' (*Mullane v. Central Hanover Tr. Co.* (1950) 339 U.S. 306, 314 [(*Mullane*)].) Constitutionally sufficient notice is 'such as one desirous of actually informing the [interested parties] might reasonably adopt to accomplish it.' (*Id.* at p. 315.) 'The notice must be of such nature as reasonably to convey the required information[.]' (*Id.* at p. 314.)" (*D & M Financial Corp. v. City of Long Beach* (2006) 136 Cal.App.4th 165, 174.) "*Mullane* makes it clear that due process of law does not require actual notice, but only a method reasonably certain to accomplish that end. (339 U.S. at p. 319; *Conservatorship of Wyatt* (1987) 195 Cal.App.3d 391, 395; *Chesney v. Gresham* (1976) 64 Cal.App.3d 120, 129.)" (*Evans v. Department of Motor Vehicles* (1994) 21 Cal.App.4th 958, 967 (*Evans*).)

The mailing of two notices to Patel—at addresses he provided to governmental agencies responsible for the assessed value of his property and registration under the Rent Stabilization Ordinance—was reasonably calculated to apprise Patel of the acceptance of the building into REAP. (See *Middleton v. State Bar* (1990) 51 Cal.3d 548, 559 (*Middleton*) [service of notice of disciplinary proceedings against an attorney at address

on file with the State Bar satisfies due process]; *Evans*, *supra*, 21 Cal.App.4th at pp. 968-970 [notice mailed to automobile dismantler satisfies due process where dismantler is required by statute to keep the state advised of his or her address].) The county assessor's roll and the annual registration under the Rent Stabilization Ordinance[4] are both reliable sources of the address of a property owner. Patel had an obligation to keep both entities apprised of his current address. His failure to do so does not establish that the process employed violated due process.

California School Employees Assn. v. Livingston Union School Dist. (2007) 149 Cal.App.4th 391 (*California School Employees*), cited by Patel, does not compel a different result. *California School Employees* involved a termination notice that was ambiguous as to the timing of the five-day period to request a hearing and was not calculated to provide adequate notice to an employee who was not employed year-round. (*Id.* at pp. 397-400.) The defects in service in *California School Employees* are not present in this case.

First, the notices were mailed to Patel at addresses he provided. There is no reason the City would know that Patel was unlikely to receive notice at the addresses he provided. The notices clearly stated that an appeal must be filed within 15 days. No ambiguity exists in the notice as to the time to appeal. Second, we agree with the trial court's legal conclusion that the 15-day statute of limitations for an appeal is not unconstitutional on its face or as applied. As the trial court noted, "The real property owner's notice of appeal requires only a statement of grounds for the appeal and the identity and rents of the tenants subject to REAP. LAMC § 162.06(A). This is not an onerous requirement and may readily be completed within the two weeks." Effective notice was provided.

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[4] LAMC section 151.05.B requires the landlord to provide emergency contact information, including an address, as part of the annual registration under the Rent Stabilization Ordinance.

B. Duty to Provide Relief from Default

Patel contends that even if the notice of acceptance of the building into REAP was effective, due process requires a procedure to obtain relief from default when an appeal is not timely filed. The City responds that Patel forfeited this contention by not raising it in his petition for writ of administrative mandate, and that it fails on the merits. We agree the issue is forfeited and not meritorious.

Patel raised a variety of issues in his petition for writ of administrative mandate and the supporting points and authorities, focusing on his claims of ineffective service by mail and challenges to application of the 15-day appeal period. While Patel did twice mention at different places in his points and authorities in the trial court that the City provides no procedures for relief from default, he made no substantive argument that a relief procedure is required as a matter of law. A passing observation contained within other arguments is insufficient to preserve an issue for appeal. The trial court did not address the point, and Patel did not seek reconsideration or a new trial on the basis the court had failed to resolve one of his contentions.

"[A] reviewing court ordinarily will not consider a challenge to a ruling if an objection could have been but was not made in the trial court. (*People v. Saunders* (1993) 5 Cal.4th 580, 589-590.) The purpose of this rule is to encourage parties to bring errors to the attention of the trial court, so that they may be corrected. (*Saunders*, at p. 590.)" (*In re S.B.* (2004) 32 Cal.4th 1287, 1293, fn. omitted.) The forfeiture rule applies to appeals from judgments on administrative mandate petitions. (*Saraswati v. County of San Diego* (2011) 202 Cal.App.4th 917, 930; *Milligan v. Hearing Aid Dispensers Examining Com.* (1983) 142 Cal.App.3d 1002, 1008.) The rule applies to constitutional claims that were not presented to the trial court, which "involve analyses the trial court was not asked to conduct and potentially required factual bases additional to those adduced at the hearing." (*People v. Tully* (2012) 54 Cal.4th 952, 980.) The issue was not developed in the trial court, and it is forfeited for purposes of appeal.

The contention also fails on the merits. Patel cites only two cases in support of his contention—*Evans, supra*, 21 Cal.App.4th 958 and *Middleton, supra*, 51 Cal.3d 548. Neither case holds, or even discusses, a requirement of a procedure to set aside a default after failure to file a timely appeal from an administrative decision.

Evans does not hold, as Patel asserts, that the Department of Motor Vehicles had a duty to grant relief from default when an automobile dismantler claimed he did not receive notice of revocation of his license even though it was mailed to his business address. Instead, *Evans* states as a historical fact that the Department of Motor Vehicles exercised its discretion to grant relief from default by reconsidering its original decision, after which it again revoked the license. (*Evans, supra*, 21 Cal.App.4th at p. 972.) The *Evans* court did not discuss whether there is a *duty* to have a procedure in place to grant relief from default. The holding in *Evans* is that the trial court committed reversible error in granting the dismantler's petition for writ of mandate setting aside the license revocation. Service by mail at the dismantler's business address satisfied due process because the dismantler was required to keep the state advised of his address, and the dismantler made no showing that the alleged lack of notice was not due to avoidance of service or excusable neglect. (*Id*. at pp. 972-973.) The holding in *Evans* supports the trial court's denial of Patel's petition on the grounds that notice was duly mailed to addresses Patel was obligated to keep current with both the county assessor and the City.

For similar reasons, *Middleton, supra*, 51 Cal.3d 548, is of no assistance to Patel. In *Middleton*, an attorney was properly served by mail with notice of disciplinary proceedings at her address on file with the State Bar. This was sufficient to satisfy due process. While the court noted that Middleton invoked a State Bar rule allowing for a motion to set aside a default, there is nothing in *Middleton* that suggests such a procedure is required. The *Middleton* court upheld the State Bar's denial of relief from default, finding no basis for the attorney's delay in responding. (*Id.* at p. 560.) Much like the attorney in *Middleton*, Patel was served at addresses he provided as required by law, which constitutes adequate notice, and the trial court reasonably concluded Patel was not entitled to relief based upon his own inexcusable conduct.

C. Opportunity to Respond

Patel next argues a separate due process violation occurred when the hearing officer refused to allow a hearing on the issue of placement of the building into REAP. Contrary to Patel's argument, the appeal process is designed to afford him an opportunity to challenge the placement of the building into REAP. Patel did not avail himself of that opportunity, as a result of his failure to provide a current address to either the county assessor or the City under the Rent Stabilization Ordinance.

The law is settled that there is no jurisdiction to review a final administrative decision absent statutory authorization. (*Olive Proration etc. Com. v. Agri. etc. Com.* (1941) 17 Cal.2d 204, 209; *Heap v. City of Los Angeles* (1936) 6 Cal.2d 405, 407-408; *City of Fillmore v. Board of Equalization* (2011) 194 Cal.App.4th 716, 728; *Gutierrez v. Board of Retirement* (1998) 62 Cal.App.4th 745, 749, fn. 3.) Under these authorities, the hearing officer correctly ruled that she had no authority to determine whether the building was properly accepted into REAP, as that decision became final as a matter of law when Patel failed to file a timely appeal.

Logan v. Zimmerman Brush Co. (1982) 455 U.S. 422 (*Logan*), cited by Patel, does not support his contention that he was entitled to a hearing in the absence of a timely appeal. In *Logan*, an employee filed a timely challenge to his termination. (*Id*. at p. 426.) The Illinois statutory scheme required a commission to convene for factfinding within 120 days, but the commission meeting was not scheduled until five days after the 120-day period. (*Ibid*.) The Illinois Supreme Court ruled that the commission had no jurisdiction to convene after the 120-day period, effectively upholding the termination order without consideration of the merits of the employee's contention. (*Id*. at pp. 426-427.) The United States Supreme Court reversed, holding that the employee's claim was constitutionally protected, and that the state's failure to convene a timely commission deprived the employee of his right to have his claim heard. (*Id*. at pp. 428-430, 434-435.)

The factual distinction between *Logan* and the instant case are apparent. Unlike the employee in *Logan*, Patel failed to make a timely request for review of the

administrative decision to place the building into REAP. The *Logan* court emphasized that its holding did not extend to situations involving procedural defaults, which would include Patel's failure to file a timely appeal. "Obviously, nothing we have said entitles every civil litigant to a hearing on the merits in every case. The State may erect reasonable procedural requirements for triggering the right to an adjudication, be they statutes of limitations, cf. *Chase Securities Corp. v. Donaldson*, 325 U.S., at 314-316, or, in an appropriate case, filing fees. *United States v. Kras*, 409 U.S. 434 (1973). And the State certainly accords *due* process when it terminates a claim for failure to comply with a reasonable procedural or evidentiary rule. *Hammond Packing Co. v. Arkansas*, 212 U.S. [322,] 351 [(1909)]; *Windsor v. McVeigh*, 93 U.S. [274,] 278 [(1876)]. What the Fourteenth Amendment does require, however, 'is "an *opportunity* . . . granted at a meaningful time and in a meaningful manner," *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965) (emphasis added), "for [a] hearing appropriate to the nature of the case," *Mullane v. Central Hanover Tr. Co.*, *supra*, [339 U.S.] at 313.' *Boddie v. Connecticut*, 401 U.S. [371,] 378 [(1971)]." (*Logan*, *supra*, 455 U.S. at p. 437.)

We accept Patel's assertion that his right to collect rent is entitled to due process protection. The reasoning of *Logan*, treating the employee's right to adjudication of his termination as a protected property right, applies with equal force to Patel's right to collect rent. But as *Logan* makes clear, procedural requirements for triggering the right to challenge an administrative decision are valid, and here we have no difficulty in holding that a prompt resolution of issues involving acceptance of a building into REAP, by way of an appeal within 15 days of service of notice, is in the interest of the property owner, tenants, and the City.

Unlawful Penalty

Patel argues the City was aware Patel had not received the Glendale and Reno notices that the building was placed into REAP, but penalized Patel by putting the property in the program. Patel reasons that the penalty of placement into REAP is

unconscionable as applied because Patel did not receive the required notice and opportunity to be heard. The penalties Patel suffered include up to 50 percent reductions in rent of all affected units, holding the balance of rent in an escrow account, a monthly fee of $50 per affected unit, and an inability to raise rent for a minimum of one year after the building is removed from REAP.

The issue of penalty Patel asserts on appeal is not the same issue he raised in the trial court. The issue of penalty below was directed at the hearing officer's determination that each unit in the building would receive a 25 percent rent reduction. Patel argued that the hearing officer failed to make required findings justifying the reductions as to each unit. Because the penalty issue raised on appeal is not the issue presented to the trial court, the contention is forfeited.

In any event, the contention raised on appeal is without merit. We have determined that Patel received notice of the right to appeal within 15 days, but that he failed to act in a timely fashion due to his own inexcusable neglect. The right to appeal the decision accepting the building into REAP afforded Patel the opportunity to be heard—he did not take advantage of that opportunity, and his failure to do so cannot be converted into a violation of due process. (*Logan*, *supra*, 455 U.S. at p.437 [state may impose reasonable procedural requirements for triggering the right to an adjudication, including a statute of limitations].)

DISPOSITION

The judgment is affirmed. The City of Los Angeles is awarded costs on appeal.

KRIEGLER, J.

We concur:

TURNER, P. J.

KUMAR, J.*

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* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.